

# SENATE JOURNAL

## OF THE

# IDAHO LEGISLATURE

SECOND REGULAR SESSION  
SIXTY-FIRST LEGISLATURE

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**TWENTY-FIFTH LEGISLATIVE DAY  
THURSDAY, FEBRUARY 2, 2012**

Senate Chamber

President Little called the Senate to order at 11 a.m.

Roll call showed all members present except Senators Davis and Goedde, absent and formally excused by the Chair.

Prayer was offered by Chaplain Keith Buhler.

The Pledge of Allegiance was led by Abigail Mocettini, Page.

The Senate advanced to the Third Order of Business.

### Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 1, 2012, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Winder, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

### Reports of Standing Committees

February 2, 2012

The JUDICIARY AND RULES Committee reports that [S 1274](#) and [SCR 113](#) have been correctly printed.

DARRINGTON, Chairman

[S 1274](#) was referred to the Transportation Committee.

[SCR 113](#) was referred to the Local Government and Taxation Committee.

February 1, 2012

The STATE AFFAIRS Committee reports out [H 404](#) with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

MCKENZIE, Chairman

There being no objection, [H 404](#) was referred to the Fourteenth Order of Business, General Calendar.

February 1, 2012

The JUDICIARY AND RULES Committee reports out [S 1253](#) with the recommendation that it do pass.

DARRINGTON, Chairman

[S 1253](#) was filed for second reading.

February 1, 2012

The LOCAL GOVERNMENT AND TAXATION Committee reports out [H 358](#) with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

CORDER, Chairman

There being no objection, [H 358](#) was referred to the Fourteenth Order of Business, General Calendar.

February 1, 2012

The EDUCATION Committee reports out [S 1269](#) with the recommendation that it do pass.

GOEDDE, Chairman

[S 1269](#) was filed for second reading.

On request by Senator Winder, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

### Messages from the House

February 1, 2012

Dear Mr. President:

I transmit herewith [H 402](#), [H 412](#), and [H 417](#), which have passed the House.

ALEXANDER, Chief Clerk

[H 402](#), [H 412](#), and [H 417](#) were filed for first reading.

February 1, 2012

Dear Mr. President:

I return herewith [SJR 102](#), which has passed the House.

ALEXANDER, Chief Clerk

[SJR 102](#) was referred to the Judiciary and Rules Committee for enrolling.

On request by Senator Winder, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

### Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

**S 1275**

### BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE TRAFFIC SAFETY EDUCATION PROGRAM; AMENDING CHAPTER 8, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-827, IDAHO CODE, TO PROVIDE THE BOARD OF COUNTY COMMISSIONERS IN EACH COUNTY WITH THE AUTHORITY TO ESTABLISH A TRAFFIC SAFETY EDUCATION PROGRAM, TO PROVIDE REQUIREMENTS FOR SUCH PROGRAM AND TO PROVIDE FOR THE IMPOSITION AND DEPOSIT OF CERTAIN FEES; AMENDING CHAPTER 3, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-336, IDAHO CODE, TO PROVIDE CITIES WITH THE AUTHORITY TO ESTABLISH A TRAFFIC SAFETY EDUCATION PROGRAM, TO PROVIDE REQUIREMENTS FOR SUCH PROGRAM

AND TO PROVIDE FOR THE IMPOSITION AND DEPOSIT OF CERTAIN FEES; AMENDING SECTION 19-5116, IDAHO CODE, TO PROVIDE CODE REFERENCES; AND AMENDING SECTION 1-1623, IDAHO CODE, TO PROVIDE CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS.

**S 1276**

**BY HEALTH AND WELFARE COMMITTEE**  
AN ACT

RELATING TO ADVERTISING AND PLACING CHILDREN FOR ADOPTION WITHOUT A LICENSE; AMENDING SECTION 18-1512A, IDAHO CODE, TO REVISE THE DEFINITION OF ADVERTISEMENT, TO CLARIFY WHAT CONSTITUTES A VIOLATION FOR ADVERTISING OR PLACING CHILDREN FOR ADOPTION WITHOUT A LICENSE, TO PROVIDE THAT ADVERTISING OR PLACING CHILDREN FOR ADOPTION WITHOUT A LICENSE IS A MISDEMEANOR, TO PROVIDE A CRIMINAL PENALTY, TO PROVIDE THAT ADVERTISEMENTS SHALL INCLUDE AN ISSUED LICENSE NUMBER, TO PROVIDE REQUIREMENTS FOR ADVERTISEMENTS BY AN OUT-OF-STATE ENTITY, TO EXCLUDE PRIVATE COMMUNICATIONS BY INDIVIDUALS SEEKING TO ADOPT OR PLACE A CHILD FOR ADOPTION AND TO MAKE A TECHNICAL CORRECTION.

**S 1277**

**BY HEALTH AND WELFARE COMMITTEE**  
AN ACT

RELATING TO DIETITIANS; AMENDING SECTION 54-3504, IDAHO CODE, TO REVISE THE DIETETIC LICENSURE BOARD MEMBER COMPENSATION.

**S 1278**

**BY HEALTH AND WELFARE COMMITTEE**  
AN ACT

RELATING TO ATHLETIC TRAINERS; AMENDING SECTION 54-3914, IDAHO CODE, TO REVISE THE COMPENSATION FOR THE MEMBERS OF THE IDAHO BOARD OF ATHLETIC TRAINERS.

**S 1279**

**BY HEALTH AND WELFARE COMMITTEE**  
AN ACT

RELATING TO LIABILITY OF LEGAL GUARDIANS FOR THEIR WARD; AMENDING SECTION 8-705, IDAHO CODE, TO REMOVE REFERENCE TO A LEGAL GUARDIAN; AMENDING SECTION 16-1628, IDAHO CODE, TO REMOVE REFERENCE TO A GUARDIAN; AMENDING SECTION 18-6711A, IDAHO CODE, TO REMOVE REFERENCE TO A LEGAL GUARDIAN; AMENDING SECTION 18-8409, IDAHO CODE, TO REMOVE REFERENCE TO A GUARDIAN; AMENDING SECTION 20-501, IDAHO CODE, TO REMOVE REFERENCE TO A LEGAL GUARDIAN; AMENDING SECTION 20-520, IDAHO CODE, TO REMOVE REFERENCE TO A LEGAL GUARDIAN; AMENDING SECTION 20-524, IDAHO CODE, TO REMOVE REFERENCE TO A LEGAL GUARDIAN AND TO PROVIDE REFERENCE TO ANOTHER LEGALLY OBLIGATED PERSON; AMENDING SECTION 32-1301, IDAHO CODE, TO CLARIFY THAT A GUARDIAN MUST HAVE LEGAL AND PHYSICAL CUSTODY TO BE LIABLE FOR FAILURE TO SUPERVISE A CHILD; AMENDING SECTION 33-1406, IDAHO CODE, TO REMOVE

REFERENCE TO A GUARDIAN; AMENDING SECTION 39-2611, IDAHO CODE, TO REMOVE REFERENCE TO GUARDIANS; AMENDING SECTION 39-7504, IDAHO CODE, TO REMOVE REFERENCE TO GUARDIANS; AND AMENDING SECTION 48-702, IDAHO CODE, TO REMOVE REFERENCE TO A LEGAL GUARDIAN AND TO MAKE A TECHNICAL CORRECTION.

**S 1280**

**BY HEALTH AND WELFARE COMMITTEE**  
AN ACT

RELATING TO THE RESPIRATORY CARE PRACTICE ACT; AMENDING SECTION 54-4313, IDAHO CODE, TO REVISE THE LICENSURE BOARD MEMBER COMPENSATION AND TO MAKE A TECHNICAL CORRECTION.

**S 1281**

**BY HEALTH AND WELFARE COMMITTEE**  
AN ACT

RELATING TO ADOPTION OF CHILDREN; AMENDING CHAPTER 15, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-1516, IDAHO CODE, TO PROVIDE A METHOD FOR BIOLOGICAL PARENTS TO MAINTAIN CONTACT WITH ADOPTED CHILDREN, TO PROVIDE PROCEDURES FOR ENTERING INTO A CONTACT AGREEMENT AND TO AUTHORIZE A COURT TO APPROVE, MODIFY AND ENFORCE SUCH AN AGREEMENT.

**S 1282**

**BY RESOURCES AND ENVIRONMENT COMMITTEE**  
AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-104, IDAHO CODE, TO PROVIDE FOR RULEMAKING, TO PROVIDE FOR SPECIAL INCENTIVE TAGS TO HUNT ANTELOPE, ELK OR DEER IN DESIGNATED UNITS TO CERTAIN PRIVATE LANDOWNERS AND TO PROVIDE FOR THE USE OR SALE OF SUCH TAGS; AND AMENDING SECTION 36-405, IDAHO CODE, TO PROHIBIT SPECIFIED CONDUCT UNLESS OTHERWISE PROVIDED BY LAW.

**S 1283**

**BY RESOURCES AND ENVIRONMENT COMMITTEE**  
AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-104, IDAHO CODE, TO PROVIDE THAT ANY LANDOWNER ISSUED A LANDOWNER APPRECIATION PROGRAM CONTROLLED HUNT TAG MAY SELL THE TAG TO ANOTHER PERSON; AND AMENDING SECTION 36-405, IDAHO CODE, TO PROHIBIT SPECIFIED CONDUCT UNLESS OTHERWISE PROVIDED BY LAW.

[S 1275](#), [S 1276](#), [S 1277](#), [S 1278](#), [S 1279](#), [S 1280](#), [S 1281](#), [S 1282](#), and [S 1283](#) were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

[H 402](#), by Judiciary, Rules, and Administration Committee, was introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

[H 412](#), by Agricultural Affairs Committee, was introduced, read the first time at length, and referred to the Agricultural Affairs Committee.

[H 417](#), by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

The Senate advanced to the Twelfth Order of Business.

### Second Reading of Bills

[S 1243](#), by Transportation Committee, was read the second time at length and filed for third reading.

[H 357](#), [H 363](#), [H 364](#), and [H 365](#), by Revenue and Taxation Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

### Third Reading of Bills

On request by Senator Winder, granted by unanimous consent, [S 1226](#) retained its place on the Third Reading Calendar for one legislative day.

[S 1227](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Smyser arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Pursuant to Senate Rule 39(H), Senator Fulcher disclosed a possible conflict of interest under applicable law.

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Fulcher, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai, McGee, Malloy (McKague), McKenzie, Mortimer, Nuxoll, Pearce, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Davis, Goedde. Total - 2.

Total - 35.

Whereupon the President declared [S 1227](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1228](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Johnson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Pursuant to Senate Rule 39(H), Senator Fulcher disclosed a possible conflict of interest under applicable law.

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Fulcher, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai, McGee, Malloy (McKague), McKenzie, Mortimer, Nuxoll, Pearce, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Davis, Goedde. Total - 2.

Total - 35.

Whereupon the President declared [S 1228](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1257](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Mortimer arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Fulcher, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai, McGee, Malloy (McKague), McKenzie, Mortimer, Nuxoll, Pearce, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Davis, Goedde. Total - 2.

Total - 35.

Whereupon the President declared [S 1257](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1258](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Mortimer arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Fulcher, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai, McGee, Malloy (McKague), McKenzie, Mortimer, Nuxoll, Pearce, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Davis, Goedde. Total - 2.

Total - 35.

Whereupon the President declared [S 1258](#) passed, title was approved, and the bill ordered transmitted to the House.

[H 395](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Bair arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Fulcher, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai, McGee, Malloy (McKague), McKenzie, Mortimer, Nuxoll, Pearce, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Davis, Goedde. Total - 2.

Total - 35.

Whereupon the President declared [H 395](#) passed, title was approved, and the bill ordered returned to the House.

[S 1267](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Broadsword arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Fulcher, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai,

McGee, Malloy (McKague), McKenzie, Mortimer, Nuxoll, Pearce, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Davis, Goedde. Total - 2.

Total - 35.

Whereupon the President declared [S 1267](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1213](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Nuxoll arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Fulcher, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai, McGee, Malloy (McKague), McKenzie, Mortimer, Nuxoll, Pearce, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Davis, Goedde. Total - 2.

Total - 35.

Whereupon the President declared [S 1213](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1219](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Darrington arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Fulcher, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai, McGee, Malloy (McKague), McKenzie, Mortimer, Nuxoll, Pearce, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Davis, Goedde. Total - 2.

Total - 35.

Whereupon the President declared [S 1219](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1222](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Acting Senator Malloy arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

President Little called President Pro Tempore Hill to the Chair.

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Fulcher, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai, McGee, Malloy (McKague), McKenzie, Mortimer, Nuxoll, Pearce, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Davis, Goedde. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared [S 1222](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1232](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator LeFavour arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Fulcher, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai, McGee, Malloy (McKague), McKenzie, Mortimer, Nuxoll, Pearce, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Davis, Goedde. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared [S 1232](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1233](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Vick arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Fulcher, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai, McGee, Malloy (McKague), McKenzie, Mortimer, Nuxoll, Pearce, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Davis, Goedde. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared [S 1233](#) passed, title was approved, and the bill ordered transmitted to the House.

Senator Goedde was recorded present at this order of business.

On request by Senator Winder, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

### Miscellaneous Business

On motion by Senator Winder, seconded by Senator Malepeai, by voice vote, the Senate adjourned at 12 noon until the hour of 11:15 a.m., Friday, February 3, 2012.

BRAD LITTLE, President

Attest: JENNIFER NOVAK, Secretary